

## 21 C.J.S. Courts § 59

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### Courts

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### II. Jurisdiction of Courts

#### D. Jurisdiction of Person

##### 4. Particular Circumstances or Actions Affecting Exercise of Personal Jurisdiction

###### § 59. Domestic and marital relations as basis for personal jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, Courts 13.2, 13.3(1) to 13.3(4), 13.5(1)

**Some jurisdictional statutes contain special provisions dealing with personal jurisdiction in certain matrimonial actions or family court proceedings.**

Some jurisdictional statutes contain special provisions dealing with personal jurisdiction in matrimonial actions or family court proceedings involving support, alimony, maintenance, distributive awards, or special relief,<sup>1</sup> including the Uniform Interstate Family Support Act,<sup>2</sup> and generally applicable jurisdictional statutes also apply in domestic relations matters and are subject to the same due process constraints of minimum contacts.<sup>3</sup> Insofar as divorce proceedings affect certain contractual aspects of a marriage, such as child support, property distribution,<sup>4</sup> or maintenance, and require an adjudication of personal liability, the action is in personam for jurisdictional purposes.<sup>5</sup> Thus, for entry of a divorce decree, generally it is sufficient for jurisdictional purposes that the petitioner is domiciled in a United States jurisdiction, and it

makes no difference what, if any, contacts the respondent has with the forum; however, financial orders, including those for child support, maintenance, and distribution of marital property, are considered to be in personam judgments, and for such judgments, the respondent must have sufficient minimum contacts with the forum in order for the forum court constitutionally to exercise personal jurisdiction over the respondent.<sup>6</sup>

The state forum constituting the place of the marital residence may exercise personal jurisdiction over a nonresident spouse for purposes of a divorce action by the spouse then resident in the forum state when the forum is the last marital residence of the parties.<sup>7</sup> A court has personal jurisdiction in a divorce action over a nonresident who is served with process while temporarily in the state for activities unrelated to the suit.<sup>8</sup> However, the unilateral decision of one spouse to move to a state does not confer jurisdiction on the state courts.<sup>9</sup>

A family relationship is among those matters in which a forum state has such a strong interest that its courts may reasonably make an adjudication affecting the parent-child relationship even though one of the parties to the relationship may have had no personal contacts with the forum state, and consequently, due process permits adjudication of the custody and visitation of a child residing in the forum state without a showing of minimum contacts on the part of the nonresident parent.<sup>10</sup> A court having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident.<sup>11</sup> However, the fact that a child resides in a particular jurisdiction does not necessarily give courts personal jurisdiction over a child's parent with respect to all matters relative to that child.<sup>12</sup>

### ***Federal Uniformed Services Former Spouses' Protection Act.***

A federal statute<sup>13</sup> dealing with the payment of military retired or retainer pay in compliance with domestic relations orders prohibits a court from exercising personal jurisdiction over a defendant on grounds other than residence, domicile, or consent.<sup>14</sup> State statutes in conflict with the federal statute are preempted as a basis of state court personal jurisdiction to the extent of the conflict.<sup>15</sup>

## **CUMULATIVE SUPPLEMENT**

### **Cases:**

Daughter's purported contacts with Ohio were not of such quality that she could reasonably anticipate being called into court there, and thus, district court's exercise of personal jurisdiction over her in her father's action alleging unjust enrichment and promissory estoppel would not

comport with due process requirements, where her only alleged contacts with Ohio were a few phone calls and e-mails to family members, made in good faith and with goal of creating a relationship in Florida. [U.S. Const. Amend. 14. Thomas v. Dykstra, 309 F. Supp. 3d 480 \(N.D. Ohio 2018\).](#)

## [END OF SUPPLEMENT]

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### Footnotes

- 1 N.C.—[Sherlock v. Sherlock, 143 N.C. App. 300, 545 S.E.2d 757 \(2001\)](#).  
Tex.—[Goodenbour v. Goodenbour, 64 S.W.3d 69 \(Tex. App. Austin 2001\)](#).
- A.L.R. Library**  
Long-arm statutes: obtaining jurisdiction over nonresident parent in filiation or support proceeding, 76 A.L.R.3d 708.
- 2 Colo.—[In re Marriage of Lohman, 2015 COA 134, 361 P.3d 1110 \(Colo. App. 2015\)](#).  
Ill.—Department of Healthcare and Family Services ex rel. Heard v. Heard, 394 Ill. App. 3d 740, 334 Ill. Dec. 28, 916 N.E.2d 61 (3d Dist. 2009).  
**A.L.R. Library**  
Construction and Application of Uniform Child Custody Jurisdiction and Enforcement Act's Significant Connection Jurisdiction Provision, 52 A.L.R.6th 433  
Construction and Application of Uniform Interstate Family Support Act, 90 A.L.R.5th 1.  
U.S.—[Washington v. Florida Dept. of Children and Families, 595 F. Supp. 2d 1291 \(M.D. Fla. 2009\)](#) (applying Florida law).  
Colo.—[In re Marriage of Lohman, 2015 COA 134, 361 P.3d 1110 \(Colo. App. 2015\)](#).  
Ill.—Department of Healthcare and Family Services ex rel. Heard v. Heard, 394 Ill. App. 3d 740, 334 Ill. Dec. 28, 916 N.E.2d 61 (3d Dist. 2009).  
Mo.—[In re Marriage of Berry, 155 S.W.3d 838 \(Mo. Ct. App. S.D. 2005\)](#).  
Or.—[In re Marriage of Adams, 173 Or. App. 242, 21 P.3d 171 \(2001\)](#).  
**A.L.R. Library**  
Doctrine of forum non conveniens: assumption or denial of jurisdiction of action involving matrimonial dispute, 55 A.L.R.5th 647.  
Domestic recognition of divorce decree obtained in foreign country and attacked for lack of domicil or jurisdiction of parties, 13 A.L.R.3d 1419.  
4 Colo.—[In re Marriage of Lohman, 2015 COA 134, 361 P.3d 1110 \(Colo. App. 2015\)](#).  
5 Mo.—[In re Marriage of Berry, 155 S.W.3d 838 \(Mo. Ct. App. S.D. 2005\)](#).  
6 Colo.—[In re Marriage of Lohman, 2015 COA 134, 361 P.3d 1110 \(Colo. App. 2015\)](#).  
7 Tex.—[Goodenbour v. Goodenbour, 64 S.W.3d 69 \(Tex. App. Austin 2001\)](#).

- 8 U.S.—[Burnham v. Superior Court of California, County of Marin](#), 495 U.S. 604, 110 S. Ct. 2105, 109 L. Ed. 2d 631 (1990).
- 9 Me.—[Von Schack v. Von Schack](#), 2006 ME 30, 893 A.2d 1004 (Me. 2006).
- 10 Tex.—[Goodenbour v. Goodenbour](#), 64 S.W.3d 69 (Tex. App. Austin 2001).
- 11 Tex.—[Dickerson v. Doyle](#), 170 S.W.3d 713 (Tex. App. El Paso 2005).
- 12 Wyo.—[Goodwin v. Hall](#), 957 P.2d 1299 (Wyo. 1998).
- 13 10 U.S.C.A. § 1408(c)(4).
- 14 Ill.—[In re Marriage of Robinson and Willis](#), 2015 IL App (1st) 132345, 392 Ill. Dec. 711, 33 N.E.3d 260 (App. Ct. 1st Dist. 2015).
- 15 Ill.—[In re Marriage of Robinson and Willis](#), 2015 IL App (1st) 132345, 392 Ill. Dec. 711, 33 N.E.3d 260 (App. Ct. 1st Dist. 2015).

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